




Care and Control

A 'toolkit' to support the West Midlands SEN Partnership in development of a shared approach to fulfilling the LEA duty of care





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Introduction

The West Midlands SEN Regional Partnership commissioned this report, *Care and Control - a 'tool-kit' to support the West Midlands SEN Partnership in the development of a shared approach to fulfilling the LEA duty of care*, from Birmingham Behaviour Support Service as a result of concerns expressed by the Emotional, Social and Behavioural Difficulties (ESBD) Study Group.

The Study Group agree with the comment made in the report that 'the real or perceived need for physical intervention and the management of aggressive/violent episodes is seen as a major barrier to inclusion, and a persistent reason for exclusion' by schools.

The West Midlands Inspectors and Advisor Group had also discussed the need for assistance with training for staff in mainstream and special schools and requested assistance from the West Midlands SEN Regional Partnership in developing a regional approach.

It was clear from our discussions that Peter Wild, Birmingham Behaviour Support Service, had carried out important work on developing Birmingham LEA's response to its Duty of Care requirements, incorporating the concerns described above. Many LEA representatives on the Study Group expressed interest in this work, which Peter presented at a Study Group meeting in the Autumn term 2003. Subsequently the Study Group recommended that there should be a regional approach to give guidance, in the form of a tool-kit, to help with the development of LEA policy in this area. This recommendation was supported by the West Midlands SEN Regional Partnership Management Team. This report is the outcome of these recommendations.

We hope that you find it supports development of your own LEA Policy on Care and Control.

Annette English and Bridget Jones

Regional Facilitators for the West Midlands SEN Regional Partnership

Care and control - a model approach to fulfilling the LEA duty of care

Supporting the management of challenging behaviours can pose difficulties for any LEA. This is especially so when a feature of this might involve behaviours that require restrictive physical intervention (restraint). However, positive contingent touch also poses difficulties in a culture where local authorities are often viewed as fair game for allegations of abuse and claims for negligence. Most LEAs seek to support good practice, but are often at a loss to know how to tackle the subject and how to keep it in perspective. This 'tool-kit' is an attempt to ask key questions and to provide references and examples of good practice.

Vision

To start with, an LEA needs to have a clear vision about what it is intending to achieve. The vision for Birmingham LEA is relatively straightforward:

1. What do we want to achieve?

To ensure that as an Education Service we have fully discharged our duty of care to our students and employees.

Objectives

Having established a vision, a plan can be formulated containing defined objectives, for example:

- To provide guidance and a model policy that steers and facilitates good practice in the area of restrictive physical intervention.
- To develop capacity in training in order to support good practice.
- To complete an audit of current practice and training already undertaken.
- To analyse the audit to inform strategy.
- To analyse current documentation.
- To assess the current picture and measure the shortfall in terms of fulfilling the wider vision.

You will find a sample audit that can be conducted within your LEA in Appendix 1 alongside a copy of Birmingham's revised guidance on the use of Restrictive Physical Intervention (Appendix 2) and a copy of a model policy for care and control (Appendix 4).

I found it helpful and cost effective to bring in an outside consultancy to undertake the above objectives. It served two purposes: it got the job done quickly and offered a fresh and independent insight.

Why 'care and control'?

Much of the language surrounding this field is negative in its connotations. It is important to emphasise that managing aggressive behaviours is only one side of the coin. Physical contact also has a positive side: comforting children, shaking hands, etc. Care and control implicitly acknowledges that good relationships are at the core of managing all behaviour strategies.

Children like to make contact with adults for all kinds of reasons (holding hands in the playground, for example). Contingent touch has to be managed in order to make sure that it is done appropriately and leaves neither party vulnerable to allegations of abuse. Planned handling can be viewed as positive, because it is committed to keeping children and adults safe and included in all settings.

When developing your own care and control policy, it is useful to ask 'Where are we now?' Some indicators of things to look out for are given below:

Where are we now?

- Are you satisfied that you have taken all reasonable steps to fulfil your duty of care within the resources that can reasonably be made available?
- Have you issued current and relevant guidance on the use of restrictive physical intervention?
- Have you consulted on this issue within your authority?

- Do you have criteria for establishing minimum standards for training courses?

Knowing where you are helps you to assess how far you have got to go in order to follow good practice.

The way forward?

- Decide who is to assume responsibility for care and control within the LEA.
- Determine the means by which this area is to be funded.
- Determine a timetable for the foundation work.

These key points may seem obvious, but they aren't always as easy to achieve as they appear to be. It is important to stress that this process has to be tailored to your own context. For example, different authorities work to different timescales. Local political accountability also varies in terms of getting the correct approval for accompanying documentation.

Options

- Leave things as they are.
- Modify the current situation.
- Root and branch review, leading to action plan committed to good practice.

These may appear obvious, but it is important to understand which stage your context is at. If in any doubt, my advice is to undertake a full and ongoing review of good practice. This is a fast moving field that is being led by litigation and legislation.

Recommendation

- Undertake a full review.
- Identify and implement good practice.
- Make a commitment to ongoing review.

Training

The development of the capacity to deliver training within an LEA is an important facet of the process. The following extract from the model policy suggests criteria that underpin a *bona fide* trainer/training course.

Following a review of existing school practice(s), in consultation with governors/staff and the LEA, the school/provision is committed to using (insert name of provider) providing this approach continues to adopt the BILD Code of Practice on physical intervention and has been or is working towards being accredited through the BILD Physical Interventions Accreditation Scheme. (Name of) School acknowledges that physical techniques are only a part of a whole setting approach to behaviour management. The governors of the school are committed to working within the LEA's framework for accessing training in that:

- It will review its Behaviour policy on a two-year cycle at least.
- Negotiation will take place between the Behaviour Support Service and the Head teacher and agreement will be reached in relation to the standard of behaviour management within the school before a formal application for training is made.
- Training will be delivered on a needs based approach and procedures are in place to monitor incidents, following a behavioural audit and implementation of appropriate risk management procedures.
- All training will include theory on at least the following:
 - Causes of challenging behaviour
 - Prevention strategies
 - Positive behaviour management
 - De-escalation
 - Risk Assessment
 - Behaviour Support Planning
 - De-brief following incidents

Some LEAs have gone down the route of prescribing one training organisation in order to provide local capacity. I chose to offer a more diverse approach based on minimum criteria for acceptability. The reasons for this approach are as follows:

- It is worth exploring the range of good-quality trainers and training packages in order to be satisfied that appropriate needs are met according to the setting. For example, some trainers are particularly good within specialised settings, but are less effective in mainstream schools and vice versa.
- If a number of *bona fide* trainers are already being used (Birmingham is a large and very diverse LEA) then it is not appropriate to be overly prescriptive where schools have well-established training in place.
- The British Institute of Learning Disabilities (BILD) accreditation scheme is the only one currently available in order to 'kite-mark' courses. It is important to have within one's capacity a wide range of externally accredited trainers.

On the other hand, it is simpler to monitor training when it is provided by a single training organisation. An appropriate compromise is to offer the scope for choice, so that schools feel empowered and at the same time, to build up capacity with a 'preferred' training organisation; this is called 'the team-teach approach'.

In order to do this, I modelled the use of team-teach with my own service, building up a multi-service team of around fifteen instructors in order to cope with demand. This does not prevent schools looking elsewhere to buy in training should they choose to.

Funding

I was in a position to access the Standards Fund in order to develop the training infrastructure. This covered the costs of the external consultant, the appointment of a training coordinator (for me, a vital ingredient), and the training costs of the team-teach instructors.

Schools then buy in the training because, in Birmingham, a high proportion of the Standards Fund is devolved to schools. If schools conduct risk assessments prior to buying in training, they can put the issue in perspective and develop *appropriate* training. For example, some schools need little or no training, and others have sufficient need to invest in developing their own in-house instructor.

I strongly believe that, by broadening the perspective to a multi-dimensional approach to care and control, there is a powerful argument for this area of work being firmly inside the inclusion agenda. When you talk realistically to many schools, the real or perceived need for physical intervention and the management of aggressive/violent episodes is seen as a major barrier to inclusion and is a persistent reason for exclusion. A number of LEAs view the issue of providing training in care and control as a negative and dangerous move, rather than as a positive opportunity to introduce an holistic and all-embracing approach to all aspects of behaviour management. They do not recognise that training lowers the risk of violence, thereby promoting greater inclusion. It also reduces the potential for litigation based on dereliction of duty of care.

Concluding remarks

Completing the process described above took approximately two years. This may sound a long time, but it allowed for a measured approach that was evidence based. It allowed for very full consultation, particularly with teacher associations, to ensure that there was broad support for the approach. In addition, it allowed time to spread the cost of consolidating training capacity in tandem with the development of the key documentation. Clearly no two LEAs will be the same in respect of timescales, but I hope to have illustrated that it is preferable to take one's time in a measured way than reacting to one or two contentious episodes. The process has enabled a strategic approach to become embedded and developed according to need. Things are still far from ideal, but they are demonstrably better than the starting point. From these sound foundations it will be possible to develop a sustainable position that clearly demonstrates the commitment of the LEA to fulfilling its duty of care.

Acknowledgments

I would like to thank the following:

Trevor Williams of Concepts in Education for his significant input into the development of this process in Birmingham; George Matthews of the 'team-teach' approach and for his ongoing training, support advice and professional generosity; BILD for the accreditation scheme, their training directory underpins a key element of the model policy; and Birmingham LEA Inclusion Support and Behaviour Support for providing funding and trainers.

I hope that you find the contents of this tool-kit both relevant and useful. I would be happy to hear from you if you have any enquiries or concerns. If there is a benefit in sharing them, then they can be added to the tool-kit under the heading 'Frequently Asked Questions'.

Good luck in your endeavours.

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APPENDICES

The appendices that follow contain sample documents that you may find useful.

- Appendix 1 Auditing tool
- Appendix 2 Birmingham LEA Guidance 2003 and Annexes
- Appendix 3 Briefing paper, rationale and process
- Appendix 4 Birmingham Education Service model policy
- Appendix 5 Consultancy: Concepts in Education

Appendix 1 Auditing Tool

The form below is an example of a simple auditing tool. This was commissioned from 'Concepts in Education'. They also conducted the analysis of the questionnaire and provided an excellent written report. The added benefit is that this report offers a baseline assessment of the situation thus, if the exercise is repeated at intervals, progress can be measured.

BEHAVIOUR MANAGEMENT/CARE AND CONTROL POLICY AND PRACTICE AUDIT	
School/PRU/Service:	
Name of Headteacher/Manager:	Tel:
1. Behaviour Management	
Does the provision have a Behaviour Management Policy?	Y / N
When was it last reviewed?	
Date of next review:	
Does the provision have any concerns regarding the management of behaviour and areas where specific advice would be useful?
2. Care and Control	
Does the Provision have a 'stand alone' Care and Control Policy?	Y / N
Has it been ratified by Governors/Management Committee?	Y / N Date:
Does the Provision have a Serious Incident book?	Y / N
Does the Provision formally record incidents of physical intervention?	Y / N
Is there a named Person to support the Headteacher/Managers in monitoring incidents?	Y / N
Who is authorised to use reasonable force in your Provision?	
Headteacher/Manager	<input type="checkbox"/>
Deputy Headteacher	<input type="checkbox"/>
Teachers	All <input type="checkbox"/> Some <input type="checkbox"/>
Support Assistants	All <input type="checkbox"/> Some <input type="checkbox"/>
Welfare Assistants	All <input type="checkbox"/> Some <input type="checkbox"/>
Caretaker/Site Manager	<input type="checkbox"/>
Other(s) (Please specify):	

Have staff at the Provision been trained in physical intervention techniques?

Y / N

If so, please name the training package(s):

Degree of reasonable force required within your school/PRU.

Low less than 1 per term

Medium between 1 and 5 per term

High over 5 per term

Considering that training is in the 'market place' would you welcome training in the use of reasonable force?

Y / N

If yes, in what areas?

Personal safety for staff

Low level intervention, ie escorting pupils

High level intervention, ie the above and in addition

holding pupils in standing position

de-escalating pupils into chairs

If you have already received training would you wish to access a refresher course?

Y / N

If yes, in what techniques? (please specify)

.....

.....

.....

Thank you for your assistance regarding this matter.

Appendix 2

Below is a copy of Birmingham LEA Guidance issued in 2003 following its revision. Annexe 6 in this document lists the documentary references used.

THE USE OF REASONABLE FORCE TO CONTROL OR RESTRAIN PUPILS

GUIDANCE FOR BIRMINGHAM MAINTAINED SCHOOLS AND THE CITY COUNCIL EDUCATION SERVICE

The Legal Framework:	Reference to relevant Education Legislation and Guidance
Model Policy:	A model policy has been produced by the Local Education Authority which is available by contacting The Behaviour Support Service (BSS) 0121 303 5523. The purpose of this guidance is to support schools/provisions in modifying this policy to meet the individual needs of their client group. Further information and advice is available from the Head of Service (BSS).
Definition of Restraint:	The technical definition is laid out in section 3 of this guidance. In an attempt to support Schools/Provisions, Birmingham LEA uses the term Positive Handling. This provides establishments with the opportunity to produce transparent policies that outline the physical interaction between staff and children. It is intended to support inclusive learning opportunities by providing the following philosophical statement: 'Positive Handling uses the minimum degree of force necessary for the shortest period of time to prevent a young person harming him/herself, others or property'.
Scope of the Guidance:	Describes the range of children and young people who are catered for by LEA-maintained provision, particularly those who may potentially present more challenges for those who work with them.
Promoting Good Practice:	Preventing confrontation by using preventative strategies: steps for action prior to use of reasonable force to control or restrain pupils.
Management responsibilities:	Summary of Headteachers' responsibilities in authorising staff, securing appropriate training, undertaking risk assessment, involvement of parents/carers, monitoring and recording, dealing with complaints and involvement of other agencies, support of staff.
Risk Assessment:	Description of risk assessment which should be adopted in settings where restraint is likely to be used and settings where individual children and young people present particular behaviours which could constitute a risk to themselves or others.
Review Procedures:	Steps taken to review procedures which have been used.
Employer's Responsibility:	Sets out responsibilities towards staff.
Staff Training:	Training within a context of prevention.
Annexes:	<ol style="list-style-type: none"> 1. Checklist for schools 2. Physical restraint 3. Flowchart for use of reasonable force 4. Checklist for Headteachers 5. Guidance for schools teaching children with severe learning difficulties 6. References used

1. INTRODUCTION

- 1.1. The intention of this document is to provide schools with guidance on the circumstances in which physical restraint may be appropriately used, procedures that should be in place and the techniques which are considered to be suitable. It is vitally important that staff, pupils and parents understand these procedures and the context in which they apply.
- 1.2. Furthermore it is intended to ensure that staff are clear about their role when they are working with children in order that both their own rights and those of children are protected
- 1.3. The Education Act 1997 has placed greater emphasis on the roles and responsibilities of schools for the promotion of good behaviour and discipline. This includes a section on the power of members of staff to restrain pupils and the policy also needs, therefore, to be considered in this broader context. The LEA acknowledges that there is a fine line to be drawn between advice that will be helpful to clarify where reasonable force might be used as the last resort, and advice that may precipitate violent reactions in pupils. The purpose of this guidance is to ensure that this line is clearly understood and that reasonable force or restraint is only used as a last resort.
- 1.4. This guidance sets out the framework for the use of physical restraints in a general sense while recognising that there are circumstances that will require more particular approaches. Any use of physical restraints, however, should always be set within the guidance of an **overall behaviour management framework underpinned by sound risk assessment**.
- 1.5. Birmingham schools present a wide and complex set of differing individual needs and difficulties. The variety of types of behaviour that can be classed under the general heading of 'challenging behaviour' reflects this range. Strategies for dealing with such behaviour need to be equally varied and matched carefully to particular circumstances and individual needs.
- 1.6. Although the vast majority of young people in schools will never require any form of physical restraint, many staff in our schools deal on a day to day basis with some young people, who exhibit challenging behaviours. In these cases it is advised that schools carry out some form of **risk assessment. Guidance on risk assessment principles is provided later in this document** (paragraph nine, page 14).
- 1.7. Successful inclusion of more young people in mainstream settings increases the need to assist all staff in preserving good order and discipline within an environment conducive to meeting the needs of all young people.
- 1.8. At the same time, the risk of accusation of improper conduct towards a young person needs to be minimised in order that the staff may act appropriately in difficult circumstances. The guidelines support the need for physical restraint but as only one of the strategies available for the management of challenging behaviour.
- 1.9. The LEA is committed to following Birmingham ACPC Child Protection Procedures in order to ensure the welfare of all pupils and therefore this policy has been subject to consultation with senior representatives of the Social Services Department and the police.

2. THE LAW

- 2.1 Legislation that came into force on 1 September 1998 (Section 550A of the Education Act 1996), together with national guidance (DfEE Circular 10/98), establishes the powers of teachers and other staff who have lawful control or charge of pupils to use reasonable force in order to prevent children committing a crime, causing injury or damage, or causing disruption.
- 2.2 This guidance builds on this particular section of the 1996 Act as a support to schools, services and staff throughout the Education Service who are working with pupils who occasionally may need to be prevented from harming themselves or others by the use of restraint.

- 2.3 Restraint is an action of last resort and is not a substitute for behaviour management strategies. Schools are required by law to have a clear school behaviour policy that has regard to Annex B of DfEE Circular 10/99 (Social Inclusion: Pupil Support).
- 3. DEFINITION OF PHYSICAL RESTRAINT**
- In this document we describe physical restraint in accordance with DOH Circular 4/93 namely, **the positive application of force with the intention of overpowering the child**. The proper use of restraint requires skill, judgement and knowledge of non-harmful methods of control. In an attempt to promote inclusive learning opportunities the LEA strongly recommends that schools/provisions produce Positive Handling Policies that provide a transparent outline of all levels of physical interaction with their pupils.
- 4. THE SCOPE OF THIS GUIDANCE**
- 4.1 This guidance focuses on Physical Control and Restraint (Positive Handling Strategies) and circumstances when it is appropriate to use minimum physical force to prevent pupils moving into serious danger. Initially any necessary warning should be verbal but physical restraint may be appropriate particularly when a pupil may not be capable of understanding danger.
- 4.2 Restraint is therefore qualitatively different from other forms of physical contact, such as manual prompting, physical guidance or other contact which might have an appropriate place within the context of particular teaching approaches, for example where staff are working with pupils with severe and complex learning difficulties.
- 4.3 Some aspects will require more specific guidance than others, for example where there is a higher level of risk to pupils and staff of violence or the need for physical restraint such as in schools for pupils with special needs in their various forms. These will be contained in annexes, with particular reference to severe learning difficulties.
- 4.4 It should be remembered that the failure to intervene, or lack of restraint, at an early stage of the challenging behaviour can produce situations where control is lost and damage, both emotional and physical, might occur to both young person and member of staff.
- 4.5 Physical restraint, however, should only be used as a last resort and never as a matter of course. It should never be used as a sanction or punishment. It can be used proactively as a planned approach towards meeting individual need or in case of an emergency when there seems to be a real possibility that significant harm would occur if restraint is withheld. DfEE Circular 10/98 sets out the conditions within which a teacher, or another person authorised by the Headteacher:
- “may use such force as is reasonable in all the circumstances to prevent a pupil from doing, or continuing to do any of the following:**
- Committing a criminal offence (including behaving in a way that would be an offence if the pupil were not under the age of criminal responsibility);
 - Causing damage to property (including the pupil's own property);
 - Engaging in any behaviour prejudicial to maintaining good order and discipline at the school or among any of its pupils, whether that behaviour occurs in a classroom during a teaching session or elsewhere.”
- 5. EMOTIONAL AND BEHAVIOURAL DIFFICULTIES**
- 5.1 The needs of children and young people who present emotional and behavioural difficulties pose a range of challenges.
- 5.2 At one end of the spectrum of need are young people who behave in ways that are considered disruptive. They may display behaviour that is socially inappropriate and in some instances is dangerous.

- 5.3 There is a qualitative difference between deliberately disruptive behaviour and impulsive behaviour arising from emotional/psychological disturbance – such as self-harm.
- 5.4 Both sorts of behaviour raise concerns because of the possible increase of risk of injury to the young persons or their educators/carers or to other children. Instances where pupils have a total disregard for the safety of themselves or others (such as deliberately pushing their hands through window glass, throwing items at others, self-injury or deliberately wandering across a busy road) present circumstances where there may be no alternative other than to restrict the young person's range of movement by reasonable force.
- 5.5 Such young people often have difficulties in appreciating or understanding the consequences of their actions or their environment. Some young people, as a result of their own insecurity, will test the limits of acceptable behaviour by adopting extremes of emotional or physical behaviour.

6. SEVERE LEARNING AND COMMUNICATION DIFFICULTIES

- 6.1 At another extreme, young people and children with severe learning difficulties or communication difficulties present another set of challenges. They may lack self-motivation and self-care skills that invariably require staff physically to prompt, encourage or guide them to participate in activities with which other young people would join in naturally.
- 6.2 For such pupils, challenging behaviour may be a response to a particular situation that is disturbing to them. It may be an act of frustration as a result of being unable to express something or do something. In many cases it will be of a very individual nature, such that the particular triggers or circumstances are entirely unique to that individual. Physical restraints for this behaviour may need to relate much more closely to an **Individual Positive Handling Plan** designed specifically for each individual pupil and agreed with the parent/carer.

- 6.3 The complexity, range of need and consequent support for the young person is such that physical intervention is the norm, not the exception.

7. PROMOTING GOOD PRACTICE

- 7.1 Where a team undertakes the management of children and young people, whether it be in a residential or school setting, it is essential to develop a set of procedures. These should be aimed at preventing violence and aggression and include learning about complex emotions including anger and frustration.
- 7.2 Irrespective of whether incidents occur during work with individuals or groups of young persons, early emphasis should be on managing the incident through non-physical, non-threatening, aggression-free strategies. Only in the event of the failure of clearly defined protocols to bring control to the situation, or imminent danger to persons, should physical restraint be considered. These principles are explored further below.
- 7.3 Strategies which inform young people of their behaviour, offering alternative outcomes, should be developed over time so that they become an integral part of the behaviour of adults providing support.
- 7.4 An audit of areas where physical restraint may be necessary should be undertaken and an audit of the behavioural environment could be considered within the guidance offered in 'Framework for Intervention'.
- 7.5 A set of strategies should be set out for those areas identified.
 - A primary strategy for the whole group; the expectations of the adults.
 - A secondary strategy if this breaks down.
 - A strategy for responding to uninhibited challenging behaviour.

- 7.6 Where schools are catering for children with severe emotional and behavioural difficulties or challenging behaviour all staff should be provided with written guidance on permissible methods of physical restraint. In some settings, this will be specific as part of an agreed individual education plan or 'handling strategy' agreed with parents. Other schools may consider this practice.
- 7.7 The annual review of Statements for pupils with special needs will be a time to address issues of challenging behaviour and identify planned approaches for individual young people.
- 7.8 Those young people who exhibit challenging behaviour but are not statemented should be identified through the SEN Code of Practice and have an individual educational plan (IEP), or/and an Individual Care Plan that also addresses these issues
- 8. MANAGEMENT RESPONSIBILITIES**
- 8.1 The Headteacher should ensure that all teachers and other authorised staff are appropriately trained and understand and accept the responsibility of their role in the use of reasonable force to control or restrain pupils. It is advisable that training should be available for all staff and **embrace a whole establishment approach** rather than for a small group. Clearly the amount of training will depend on the level of need of the children and young people in the school.
- 8.2 All schools need to ensure that, as far as possible, preparation and planning has taken place to identify areas where physical restraints might be used (see Risk Assessment, paragraph 9, below).
- 8.3 Where schools work with children with severe emotional and behavioural difficulties or challenging behaviour they should develop policies on the use of physical restraint. Other schools should also consider producing stand alone Care and Control Policies.
- 8.4 The complexity of these policies will depend upon the nature of the young adults being taught and the setting in which the school has developed.
- 8.5 The policy for the school should involve all adults working there and include parents, carers and young people.
- 8.6 All schools should monitor and record any use of physical restraint and the recording should be clear, comprehensive and prompt. These documents should form part of a yearly review that examines practice for policy review and informs future planning. In addition, a named Governor and the LEA Advisor to the provision should support the Headteacher in monitoring and review.
- 8.7 There should be easy access to a complaints system for pupils, parents or staff, with known procedures and identified senior member of staff to monitor the outcome; the involvement of an appropriate person outside the school should be considered. The complaints procedure must be consistent with Child Protection procedures. Once a complaint has been received, early inter-agency discussion between Education, Social Services and the police will take place.
- 8.8 This monitoring procedure should have a known timescale.
- 8.9 Where physical restraint is used, the resource implication of procedures should be consistently reviewed. This should include the role of the management in the support of staff.
- 8.10 Following an incident of restraint, clear procedures should be established to support both the young person(s) and the member(s) of staff involved in the incident.
- 9. RISK ASSESSMENT**
- 9.1 This section has particular reference to settings that cater for children with severe emotional and behavioural difficulties or challenging behaviour. However, it is recommended that all schools, PRUs and support services develop this practice as an integral part of their overall strategy for behaviour management. Risk assessments need to address two central issues:

9.2 GENERAL RISK ASSESSMENT

9.3 All schools should consider some form of risk assessment at a general level in order to inform their policy

9.4 It should enable schools to assess the environment or setting in order to gauge the potential triggers or factors that might provoke or exacerbate difficult behaviour (cf: 'Framework for Intervention').

9.5 Risk assessment and monitoring should carefully consider equality issues including race, ethnicity, gender, sexuality and disability.

9.6 Procedures for risk assessment should help staff to identify activities or environments that are associated with risk. The procedures should:

- establish the likelihood of adverse outcomes for either children or adults;
- provide some estimate of the likely consequences if such outcomes were to occur;
- enable staff to take steps and seek assistance in order to avoid unreasonable risk to themselves;
- provide opportunities to discuss, as a staff, responses to unforeseen situations.

9.7 INDIVIDUAL RISK ASSESSMENT

9.8 They need to be able to establish the possible consequences of using a particular method or methods of physical restraint when difficult behaviour occurs.

9.9 Where there is physical restraint as part of a continuum in managing challenging behaviour, then an assessment of the risk arising from these restraints should be undertaken.

9.10 The type of physical restraints which are used or authorised for use should be identified.

9.11 For each, the following questions should be asked and itemised:

- What are the potential hazards?
- What possible outcomes, positive and negative, could arise from this physical restraint?
- What are the likely outcomes if no action is taken?
- How are staff kept informed of pupils who may present a risk and those for whom there is an agreed protocol?
- Note that doing nothing (planned ignoring) is a realistic course of action if it is taken deliberately and contains the processes identified in paragraph 9 (9.1 to 9.12).
- Who might be harmed and how, eg: the young person, the adult, bystanders, the property?

9.12 Evaluate the risks. Look for the least restrictive physical restraint to respond effectively to foreseeable incidents.

9.13. Review and record the findings of such an evaluation regularly.

10. REVIEW PROCEDURES

10.1 Schools should have a set review process for incidents where physical restraint has taken place. For most schools this could be part of their normal procedures for recording and reviewing incidents. That review should include the following:

10.2 What steps are taken to ensure that minimum reasonable force is used if physical restraint is needed?

10.3 Have the incidents needing physical restraint increased/decreased?

10.4 Are incidents monitored to ensure that the length of time physical restraint is used is kept to a minimum?

10.5 Are practices reviewed and alternative methods not using physical restraint explored as a possible outcome in each case?

10.6 What steps are taken to ensure that physical restraint used causes a minimum of pain or distress?

- 10.7 Where physical restraint is used, what method is there for checking medical advice?
- 10.8 What steps are taken following physical restraint for the young person and the adults involved?
- 10.9 Are there separate debriefing sessions for both pupil and members of staff who have been involved in a restraint? Does the review explore antecedents, consequences and alternative courses of action?
- 10.10 A regular and planned review of these issues is an essential part of their management.

11. EMPLOYER'S RESPONSIBILITY

- 11.1 As in all organisations, employers and managers of educational settings have a responsibility for the safety and well being of their staff.
- 11.2 Policy statements should acknowledge clearly that physical restraint should not put staff at risk of injury.
- 11.3 Staff are entitled to appropriate medical treatment and sick leave.
- 11.4 Staff involved in violent incidents or repeated physical restraint may become stressed. Procedures should be in place to monitor them.
- 11.5 Through supervision or appraisal, all staff should be allowed access to discussions of incidents involving physical restraint.
- 11.6 Different adults respond in different ways to psychological stress. Support following incidents of aggression should reflect the individual needs and strengths of each member of staff including, where necessary, time for the member of staff to have a breathing space after an incident.
- 11.7 All staff should be encouraged to ask for their use of physical restraint to be monitored or to report any incidents that give rise to concerns.
- 11.8 The school should have a procedure for monitoring the use of restraint.
- 11.9 Monitoring should promote good practice and reduce poor methods of restraint.

12. STAFF TRAINING

- 12.1 Teachers and other staff who are authorised to control or restrain pupils must receive training in behaviour management as an integral part of training in restraint methods.
- 12.2 Teachers and authorised staff should have regular training on knowledge, skills and values for the management of anger, restraint and post restraint action.
- 12.3 Schools should also deliver training for *all* staff so that their awareness is raised, even if they are not authorised to control or restrain pupils.
- 12.4 All schools need to ensure that, as far as possible, preparation and planning has taken place to identify areas where physical restraint might be used (see Risk Assessment, page 14)
- 12.5 Where young people are identified as having challenging behaviour that may need physical restraint as a last resort, staff involved should have adequate and appropriate training made available.
- 12.6 In these instances, staff should only employ physical restraint that they have been trained to use.
- 12.7 Staff development should be organised to ensure that appropriate training on physical restraint or behaviour management is available if identified by or for a member of staff.
- 12.8 Headteachers and Governing Bodies/Management Committees should only contract trainers who have adopted the British Institute of Learning Disabilities Code of Practice and who have been or are working towards being accredited through their Physical Interventions Accreditation Scheme.
- 12.9 Prior to contracting a trainer, Senior Managers are strongly advised to contact the Head of the Behaviour Support Service to discuss the provider's appropriateness.

ANNEXE 1: CHECKLIST FOR SCHOOLS

Where there is the expectation that staff should follow the guidelines as suggested in the DfEE Circular 10/98, then each provision is advised to follow the LEA Framework provided:

1. Aims, objectives, mission statement which mention:
Physical, emotional, material and social well being that will provide the environment in which, pupils, parents and staff will work together.
2. A Care and Control policy that reflects how these aims are maintained and provides a transparent overview of all aspects of physical interaction between the young people and the staff.
3. A philosophical statement in relation to Positive Handling distinguishing between actions in which one restricts the movements of another against resistance, as against other forms of physical contact such as manual prompting, physical guidance or simply support which might be used in teaching, therapy or reassurance.
4. Use of the SEN Code of Practice to identify specific pupils who are likely to need to be handled.
5. Produce individual Positive Handling Plans that identify the techniques to be used when challenging behaviour occurs.
6. Create a system for recording instances where physical restraint is used, identifying the antecedent, the behaviour and the action taken following the incident.
7. Provide a system to interview both staff and pupils following an incident where debriefing can take place and support provided.
8. Identified Governor and LEA Advisor to support the monitoring procedure.

ANNEXE 2: PHYSICAL RESTRAINT

1. DfEE Circular 10/98 sets out the three broad categories in which reasonable force may be appropriate, or necessary, to control or restrain a pupil:
 - where action is necessary in self-defence or because there is imminent risk of injury;
 - where there is a developing risk of injury, or significant damage to property;
 - where a pupil is behaving in a way that is compromising good order and discipline.
2. Examples of situations that fall within these categories are set out in paragraph 15 of the Circular 10/98.
3. Circular 10/98 paragraph 17 points out that there is no legal definition of reasonable force and that it is therefore not possible to set out when it is reasonable to use force, or the degree of force that may reasonably be used. This will always depend on the circumstances of the case.
4. The use of force can be regarded as reasonable only if the circumstances of the particular incident warrant it. The use of any degree of force is unlawful if the circumstances do not warrant the use of physical force. Therefore physical force could not be justified in order to prevent a pupil from committing a trivial misdemeanour, or in a situation that clearly could be resolved without force.
5. The degree of force employed must be in proportion to the circumstances of the incident and the seriousness of the behaviour or the consequences it is intended to prevent. Any force used should always be the minimum needed to achieve the desired result.

6. The use of physical restraint is only lawful in certain specific cases such as where a young person is:
 - threatening the safety of other young people or other adults;
 - causing self-injury;
 - causing significant damage to property
7. Types of restraint which may be appropriate:
 - Any holding tactic in which a young adult is restrained without injury until the young adult calms down.
 - Physical contact with a young person designed to control the young person's movements which pose a danger (eg: holding by the arms against the side of the body). Standing by the side of the young person is likely to minimise the risk to adult and young person.
 - The holding of a young person's arms or legs to prevent/restrict striking/kicking.
 - The use of sufficient physical force - without causing injury - to remove a weapon/dangerous object from a young person's grasp (if foreseeable this requires specialised training).
 - Physically preventing a young person from exposing themselves to possible danger by leaving the premises.

In all the above, the person exercising the restraint must be authorised and must have received appropriate approved training.
8. Pupils should not be placed on the floor unless staff have received specialist training. Where risk assessment has taken place it is imperative that techniques are outlined within the pupils' Positive Handling Plan. Following ground-holds, pupils should be monitored every fifteen minutes for at least three hours. All relevant authorities, including the parents, must be informed as soon as possible following the incident.
9. The member of staff should advise the young person calmly and repeatedly that he/she could stop the restraint by applying self-control.
10. The young person should be released from restraint as soon as is safely possible. Release must always be carried out in a planned and controlled way.
11. As far as is possible staff should avoid any actions that could be viewed as sexual. If a member of staff feels that a necessary restraint action may be viewed by a young person as having a sexual content, the staff member should describe what he/she intends to do and why, giving the young person an opportunity to avoid it. If the action remains necessary, while carrying it out, the staff member should repeat why it is necessary, stressing that it is in the young person's power to remove the need for restraint.
12. If restraint is required for an extended period because the child cannot be released safely the senior member of staff on duty will monitor the situation closely with a view to safeguarding the young person and the staff concerned.
13. As far as possible actions should be calculated to reduce the need for restraint or, when restraint is used, to reduce the length of time for which it is necessary.
14. Only a court may judge what is reasonable in terms of the amount of force used in physical restraint and obviously does so retrospectively.

The following actions would be deemed as unreasonable:

- Striking a person
- Exerting excessive pressure on any part of a young person's body
- Causing actual injury to a young person
- Forcing a young person's arm up his/her back
- Squeezing a young person's windpipe
- Sitting on a young person
- Lifting a young person off the floor in order to intimidate
- Pulling a young person's hair

15. The following are also prohibited as forms of control

- Corporal Punishment

It is totally inappropriate to use corporal punishment and it is illegal in all state maintained schools. Corporal punishment may be defined as any act or threat of an act, such as hitting, kicking, slapping, punching, poking, prodding, biting, throwing an object, rough handling etc, which causes or threatens harm.

- Restriction of liberty (eg: locking someone up)
- Deprivation
- Restriction or refusal of visits/communication.
- Requiring the wearing of distinctive or inappropriate clothing. (Clearly this does not include wearing of school uniform or school sports-wear).
- Fines
- Intimate physical searches.

16. Physical restraint procedures

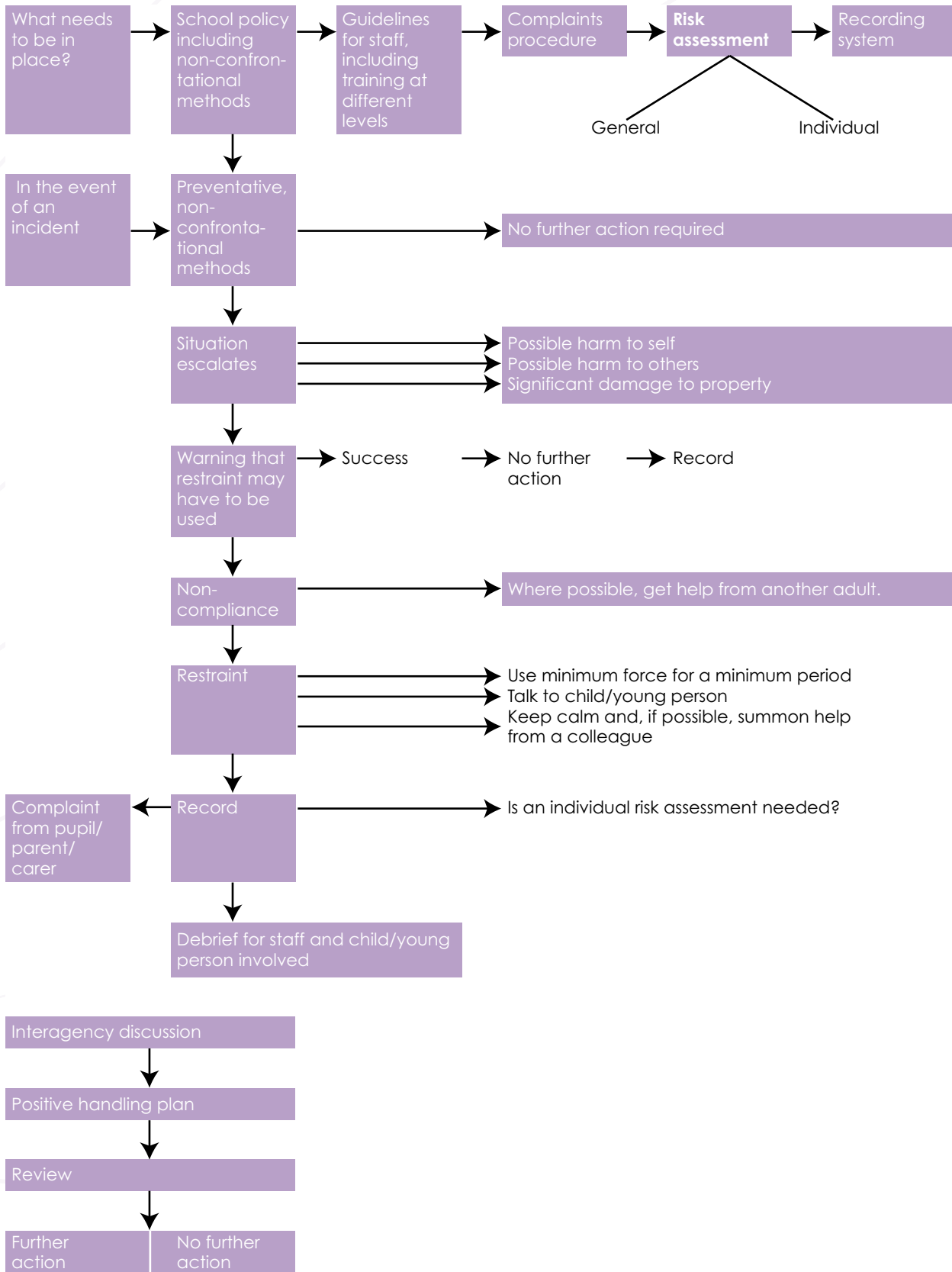
As soon as a member of staff has decided to intervene physically in order to prevent injury occurring to any person, or serious damage to property, then she/he should:

- i. Give clear instruction, warning the young person of the consequences of failure to comply. Note: this warning must not comprise any threat of unlawful assault.
- ii. If at all possible, summon a second carer or adult. The importance of the presence of a colleague is twofold: another member of staff may be able to reduce the risk of the member of staff or young person suffering bodily harm - a solitary person is in a very exposed position; and there is a witness if allegations of assault are subsequently made by a young person or parents.
- iii. While intervening the member of staff must:
 - employ the minimum force necessary to restrain the young person;
 - employ minimum physical force necessary for the minimum period needed to restrain the young person;
 - keep talking to the young person for example: 'if you stop kicking I will release my hold' (unless an individual protocol is in place);
 - avoid committing any act of punitive violence;
 - keep his or her temper under control;
 - ensure that there is a record of the incident.

SUMMARY

- i. It is lawful for a member of staff to use such 'reasonable' physical force in restraining young persons as is necessary in order to prevent and/or restrict injury to the young person, to third parties (including any other young persons), to colleagues and members of the public, and to the member of staff involved.
- ii. Only a Court can decide, after the event, whether or not the degree of physical force used was 'reasonable' in the circumstances. The use of 'excessive' force - whether in defence of self or others - constitutes assault and is subject to criminal prosecution/civil action.
- iii. Members of staff face a difficult situation when the duty of care can only be discharged through the use of physical restraint. In law, members of staff have a responsibility to take all 'reasonable' steps to ensure that young persons in their charge are not exposed to the risk of harm, or suffer any undue injury.
- iv. A member of staff should only use physical force where the member of staff sincerely believes that it is necessary to do so to prevent or restrict injury.
- v. However, the risk to the member of staff is the definition of 'reasonable' as this is open to interpretation. It is therefore essential that members of staff who have to resort to the use of restraint should do so as a last resort after other behaviour management techniques have failed to prevent a situation escalating into one where the young person is likely to damage themselves or others.

ANNEXE 3: FLOWCHART FOR USE OF REASONABLE FORCE



ANNEXE 4: CHECKLIST FOR HEADTEACHERS

What schools need to have in place:

1. A policy that reflects the LEA's Guidance and DfES Guidance.
2. A list of staff (in addition to teachers) whom the Headteacher has authorised to control or restrain pupils and an agreement that those members of staff understand and accept their role
3. Arrangements for training for teachers and those staff who have been authorised by the Headteacher, including appropriate updating of training. Arrangements for training in preventative measures as part of the whole school policy on behaviour and discipline.
4. Arrangements for Risk Assessment where it is necessary, including having due regard for the implications of any assessment on individual pupils and, where relevant, the stage they are at on the Code of Practice, their Individual Education Plan, Individual Behaviour Plan and the review of their Statement of Special Educational Need.
5. Recording and monitoring procedures.
6. Review Procedures, both for individual incidents and for the policy as a whole.
7. Arrangements for staff to be supported both in situations where they have had to restrain a pupil and where they have prevented confrontation but need to be de-briefed, including a 'breathing space' where this is requested.
8. A complaints procedure which is consistent with Child Protection Procedures and which builds in early discussion with other agencies.

ANNEXE 5: APPENDIX FOR SCHOOLS TEACHING CHILDREN WITH SEVERE LEARNING DIFFICULTIES

The range of challenging behaviour features described in the main document are to be found within the pupil population of all schools teaching children with severe learning difficulties where severe intellectual impairment is an additional element to a pupil's autistic spectrum disorder, emotional and/or behavioural difficulties, sensory disability, or chromosome disorder etc.

The complexity and range of need and the consequent support for young people is such that physical intervention is the norm and not the exception. Thus low- and medium-level intervention would not be recorded, unless there was a planned and specific intervention. This would most likely be recorded and monitored through the young person's IEP. It would not be deemed necessary for risk assessment to be carried out unless a child or young person's behaviour suggests that they present a risk to themselves or to others.

It is important for staff to work within the guidelines of the individual school policy. However the policy must guide staff strategies

and responses to the need for physical intervention in such a way that staff feel empowered within that policy to respond flexibly according to the needs of the situation. Judgements leading to this response may be affected by staffing availability, setting, the young person's behaviours, health and physical well being as well as the young person's motive for the behaviour.

Physical intervention

A child or young person's particular needs should be reflected in their Individual Education Plan or Behaviour Plan. Where an individual protocol is in place arising from a risk assessment, then procedures in the main body of the document should be followed.

Incidents and events that constitute **LOW** Level Intervention would include:

- limitation of movement through the use of high level or double handles to doors
- leading by the arm
- being held or assisted in maintaining a position eg: sitting in a chair

- use of reins, wrist-straps, buggies for management and safety of the young person out of school (especially in the early years)

Incidents and events that constitute **MEDIUM** Level Intervention would include:

- removal of young person from an activity
- placing a young person in a chair or other confined area with the intention of limiting mobility
- removal from an area of the classroom or playground
- catching a young person by whatever safe means is possible, to prevent them from harming themselves or others
- holding a self-injuring young person, eg: by the hands while they become calmer

Beyond the low and medium levels of restraint, the staff of the SLD School *must* follow the procedures described in the main document (although in individual cases, a protocol may be established with low and medium interventions).

HIGH Level Intervention would include:

- lifting a young person in order to remove him or her from a situation
- restraining in a chair (with arms), 2-3 members of staff maintaining an enforced control (one holding feet, one either side holding arms)
- holding a young person, on the floor, in a seated position, one adult sitting supported by a firm surface, arms around the young person's body with a second adult maintaining control of legs

ANNEXE 6: REFERENCES

In preparing this policy and annexes, reference has been made to several publications. These include guidelines issued by Birmingham Local Authority such as:

Child Protection Procedures (1997)

A Care Policy for Residential Schools (1992)

Guidelines on the Care, Welfare & Protection of Pupils and Staff (1995)

Framework For Intervention: Birmingham LEA 1999

Also from the Social Services Department:

Guidelines on the Use of Restraint in Children's Homes (1993)

Full account was taken of the advice emanating from the Department of Health document:

Guidance on Permissible Forms of Control in Children's Residential Care (1993)

New Outlooks, A study of provision and practice for children with emotional and behavioural difficulties

Education Act 1997

DfEE Circulars consulted were :-

Circular 8/94, Pupil Behaviour & Discipline

Circular 9/94, The Education of Children with Emotional and Behavioural Difficulties

Circular 10/94, Protecting Children from Abuse. The Role of the Education Service

Circular 10/98 DfEE July 1998 Section 550A of the Education Act 1996: The Use of Force To Control Or Restrain Pupils

Other documents referred to were:

The Council of Local Education Authorities Circular 6/95

Teachers Facing an Allegation of Physical/Sexual Abuse

Guidelines of Practice & Procedure

The British Institute of Learning Difficulties, A Policy Framework to Guide the Use of Physical Interventions (Restraint) with Adults & Children with Learning Disability and/or Autism

Guidance on the use of restrictive physical interventions for staff working with children who display extreme behaviour in association with Learning Disability and/or Autistic Spectrum Disorders. DfES/ DOH July 2002

Appendix 3

The following is a copy of the briefing paper written for elected members and other Birmingham LEA departments, laying out the rationale and the process for developing the model policy.

The use of reasonable force to control or restrain pupils: briefing paper

When I took up post as Head of the Behaviour Support Service in January 2002, I was asked to take steps to ensure that Birmingham Education Service was in a position to fulfil its duty of care to its employees and its students in schools and support services. I embarked on a process that included the following steps:

- Employment of a consultancy firm called 'Concepts in Education' in order to assure objectivity and cross-referencing. They produced a template for an audit and oversaw a local consultation exercise. They also drafted the revision of the LEA Guidance and provided a skeleton model policy from which to build. They conducted the analysis of the audit on my behalf. (See audit report 'Behaviour Management/Care and Control Practice Audit.)
- Informed by the audit and by an evaluation of the changes in legislation, guidance and case law since the inception of the existing LEA Guidance, a revision was conducted which brought the existing guidance up to date. (See Revised Guidance 'The use of reasonable force to control or restrain pupils'.)
- Informed by the above and additional consultations within the city, including schools, support services and other agencies, for example, Educational Welfare Service, a draft model policy was written. The purpose of this was to set out clearly what the legal duties of schools and teaching services was in order to fulfil the duty of care with particular reference to section 550A of the 1996 Education Act. (See Appendix 4: Model policy - care and control, 'The use of Positive Handling to manage physically challenging behaviour'.)
- Between September 2002 and May 2003 both the revised guidance and the draft model policy then went through an intensive process of consultation within the LEA, its schools and services, and the teaching associations. It was regarded as essential that the policies and practices were practical as well as absolutely necessary and that the significance of the policy was clearly understood.
- Funding was made available in the financial year 2002/03 using Standards Fund 201. This was repeated for the current financial year using Standards Fund 210. The money was, and is, being used to conduct the exercises outlined in this paper, and to create a training infrastructure to deal with issues that will arise as a result of the adoption of these two documents.
- The Behaviour Support Service in conjunction with the Visiting Teacher Service will be in a position to offer training to schools should they request it. The grant will not cover the costs of delivering training, but it has covered the costs of providing a training team. This will prove to be a sound investment. The preferred training system will be the 'team-teach' approach. Some schools are using other trainers. This is perfectly acceptable as long as the trainer meets a minimum specification as laid out in the model policy.

With these steps in place, and the adoption of the revised guidance and the model policy, I am confident that the LEA will have a defensible position if it were to be challenged in terms of fulfilling its duty of care to its staff and pupils. It will also have a sustainable strategy to deal flexibly with any subsequent changes in the law.

The next important step will be sensitively to roll out the policy to Headteachers and governing bodies so that they are clear about their obligations and the steps they can take in order to fulfil them.

If you want further clarification of any of the points contained in this briefing paper, please do not hesitate to contact me: Peter Wild, Head of BSS (0121 303 5523, peter_wild@birmingham.gov.uk)

Postscript

On 26 January 2004, all Birmingham schools were invited to a practical seminar that explained the key concepts and issues contained within the model policy.

On 27 January 2004, all Birmingham Inclusion Support services had the opportunity to attend a similar seminar.

The exercise will be repeated later in the year for those schools that could not attend.

Appendix 4

The document below is the model policy issued to all schools and support services in 2003. It can be found on the Birmingham Grid for Learning (via Behaviour Support web page).

It can be adopted or adapted by schools.



(Name of School) POLICY CARE AND CONTROL (incorporating Physical Restraint)

The use of Positive Handling to manage physically challenging behaviour

Introduction

The policy has been prepared after staff discussion(s) on ...(date)..... and was adopted by the Governing Body on ...(date).....

The responsible person for the implementation of the policy is ...(name).....

The policy will be reviewed(date)..... by the Headteacher and the Governing Body.

The policy has been developed in response to Circular 10/98 'The Use of Force to Control or Restrain Pupils', issued following the enactment of Section 550A of the 1996 Education Act. It also takes cognisance of recent DfES and DOH letters of guidance and follows the guidance for 'The Use of Reasonable Force To Control or Restrain Pupils' issued by Birmingham Education Service.

The policy should be read in conjunction with other school policies relating to interaction between adults and pupils.

The policy has been prepared for the support of all teaching and support staff who come into contact with pupils and for volunteers working within the school to explain the school's arrangements for care and control. Its contents are available to parents and pupils. A statement about the school's Discipline and Behaviour policy is made to parents in the school prospectus. This statement includes information on the use of reasonable force to control or restrain pupils.

Purpose of policy

Good personal and professional relationships between staff and pupils are vital to ensure good order in our school. It is recognised that the majority of pupils in our school/provision respond positively to the discipline and control practised by staff. This ensures the well-being and safety of all pupils and staff in (name of school/provision). It is also acknowledged that in exceptional circumstances, staff may need to take action in situations where the use of reasonable force may be required. (Name of school) acknowledges that physical techniques are only part of a whole setting approach to behaviour management.

Every effort will be made to ensure that all staff in this school:

- clearly understand this policy and their responsibilities in the context of their duty of care in taking appropriate measures where reasonable force is necessary and
- are provided with appropriate training to deal with these difficult situations.

Implications of the policy

The 1996 Education Act (Section 55OA) stipulates that reasonable force may be used to prevent a pupil from doing, or continuing to do, any of the following:

- engaging in any behaviour prejudicial to maintaining good order and discipline at the school or among any of its pupils, whether the behaviour occurs in a classroom during a teaching session or elsewhere within the school (this includes authorised out-of-school activities)
- self-injuring
- causing injury to others
- committing an offence

Individual members of staff cannot be required to use physical restraint. However, teaching and non-teaching staff work in *loco parentis* and should always operate with an appropriate 'Duty of Care', they could be liable for a claim of negligence if they fail to follow the guidance within this policy.

The application of any form of physical control places staff in a vulnerable situation. It can only be justified according to the circumstances described in this policy. Staff, therefore, have a responsibility to follow the policy and to seek alternative strategies wherever possible in order to prevent the need for physical intervention.

Reasonable force will only be used as a last resort when all other behaviour management strategies have failed or when pupils, staff or property are at risk.

Definitions of Positive Handling

No legal definition of reasonable force exists however for the purpose of this policy and the implementation of it in (name of school/provision):

- Positive Handling uses the minimum degree of force necessary for the shortest period of time to prevent a pupil harming himself, herself, others or property.
- The scale and nature of any physical intervention must be proportionate to both the behaviour of the individual to be controlled, and the nature of the harm they might cause. (Para. 3.4, page 10 *DfES Guidance ref: LEA/0242/2002 - contact DfES SEN Schools Team*).

1. Physical contact

Situations in which proper physical contact occurs between staff and pupils, eg: in the care of pupils with learning disabilities; in games/PE; to comfort pupils.

2. Physical intervention

This may be used to divert a pupil from a destructive or disruptive action, for example guiding or leading a pupil by the hand, arm or shoulder with little or no force.

3. Physical control/restraint

This will involve the use of reasonable force when there is an immediate risk to pupils, staff or property. It is important to note that the use of 'reasonable force' should be seen as a last resort. All such incidents must be recorded and stored in an accessible way.

The level of compliance from the pupil determines whether or not the interaction is an intervention or a control/restraint.

Underpinning values

Everyone attending or working in this school has a right to:

- recognition of their unique identity;
- be treated with respect and dignity;
- learn and work in a safe environment;
- be protected from harm, violence, assault and acts of verbal abuse.

Pupils attending this school and their parents have a right to:

- individual consideration of pupil needs by the staff who have responsibility for their care and protection;
- expect staff to undertake their duties and responsibilities in accordance with the school's policies;
- be informed about school rules, relevant policies and the expected conduct of all pupils and staff working in school;
- be informed about the school's complaints procedure.

The school will ensure that pupils are given support to understand the need for and respond to clearly defined limits, which govern behaviour in the school.

Authorised staff

In this school/provision all teachers are authorised to use reasonable force within the context of Circular 10/98 - 'The use of reasonable force to control and restrain pupils'.

Only non-teaching staff specifically authorised by the Headteacher to have control or charge of pupils may use reasonable force to manage or control pupils.

The school provides training for all staff and the Headteacher retains a list of all those staff trained. The list is reviewed on an annual basis (or more frequently if the context requires it).

Authorisation is not given to volunteers, students or parents.

The Headteacher is responsible for making clear to whom such authorisation has been given, in what circumstances and settings they may use force and for what duration of time this authorisation will last. The Headteacher will ensure that those authorised are aware of, and understand, what the authorisation entails. Those whom the Headteacher has not authorised will be told what steps to take in the case of an incident where control or restraint is needed.

Staff from the LEA working within the school

Support Services will have their own policies for care and control of pupils. When working within school it is the Headteacher's responsibility to ensure that colleagues from Support Services are aware of school policy and practice.

Training

It will be the responsibility of the Headteacher to arrange suitable training. Training for all staff will be made available. No member of staff will be expected to undertake the use of reasonable force without appropriate training. Prior to the provision of training, guidance will be given on action to be taken. Arrangements will be made clear as part of the induction of staff and training will be provided as part of on-going staff development.

Following a review of existing school practice(s), in consultation with governors/staff and the LEA, the school/provision is committed to using (insert name of provider), providing this approach continues to adopt the BILD Code of Practice on physical intervention, and has been or is working towards being accredited through the BILD Physical Interventions Accreditation Scheme. (Name of) School acknowledges that physical techniques are only a part of a whole setting approach to behaviour management. The governors of the school are committed to working within the LEA's framework for accessing training in that:

1. It will review its Behaviour policy on a two-year cycle at least.
2. Negotiation will take place between the Behaviour Support Service and the Headteacher and agreement will be reached in relation to the standard of behaviour management within the school before a formal application for training is made.
3. Training will be delivered on a needs-based approach and procedures are in place to monitor incidents, following a behavioural audit and implementation of appropriate risk management procedures.
4. All training will include theory on at least the following:
 - Causes of challenging behaviour
 - Prevention strategies
 - Positive behaviour management
 - De-escalation
 - Risk Assessment
 - Behaviour Support Planning
 - De-brief following incidents
5. Physical techniques are not treated in isolation and the school is committed to ensuring that, as a result of incidents, learning opportunities are created for children that allow them to 'own' and take responsibility for their behaviour.

In addition, procedures are also in place to ensure that appropriate support is provided for staff and that following an incident pupil/staff relationships are rebuilt and repaired to ensure that a positive learning environment is maintained.

All the techniques used take account of a young person's:

- age
- gender
- level of physical, emotional and intellectual development
- special needs
- social context

Also, they provide a gradual, graded system of responses.

Where appropriate, Positive Handling Plans are written for individual children and where applicable, these will be designed through multi-professional collaboration. These should be included in any Pastoral Support Plans/IEPs.

Risk Assessments need to be completed against each child when physical restraint may need to be used, in the context of identified target behaviour(s) and environments in which they occur. The assessment should identify the benefits and the risks associated with the strategies being proposed.

Strategies for dealing with challenging behaviour

As endorsed in the school's Behaviour Policy, staff consistently use positive strategies to encourage acceptable behaviour and good order.

Every effort will be made to resolve conflicts positively and without harm to pupils or staff, property, buildings or the environment. Where unacceptable behaviour threatens good order and discipline and provokes intervention, some or all of the following approaches should be taken according to the circumstances of the incident and in association with Circular 10/98.

- Verbal acknowledgment of unacceptable behaviour with request for the pupil to refrain (this includes negotiation, care and concern).
- Further verbal reprimand stating:
 - that this is the second request for compliance;
 - an explanation of why observed behaviour is unacceptable;
 - an explanation of what will happen if the unacceptable behaviour continues.
- Warning of intention to intervene physically and that this will cease when the pupil complies, if possible summon assistance from (cite school support structures).
- Physical intervention. Reasonable force being used to prevent a child harming him or herself, others or property.

Types of incident

The incidents described in Circular 10/98 fall into three broad categories:

- Where action is necessary in self-defence or because there is an imminent risk of injury.
- Where there is a developing risk of injury or significant damage to property.
- Where a pupil is behaving in a way that is compromising good order or discipline.

Examples of situations, which fall within one of the first two categories, are:

- a pupil attacks a member of staff, or another pupil;
- pupils are fighting;
- a pupil is engaged in, or is on the verge of committing, deliberate damage or vandalism to property;
- a pupil is causing, or at risk of causing, injury or damage by accident, by rough play, or by misuse of dangerous materials or objects;
- a pupil is running in a corridor or on a stairway such that he or she might have or cause an accident likely to injure him or herself or others;
- a pupil absconds from a class or tries to leave school (NB: this will only apply if a pupil could be at risk if not kept in the classroom or at school).

Examples of situations which fall into the third category are:

- a pupil persistently refuses to obey an order to leave a classroom;
- a pupil is behaving in a way that is seriously disrupting a lesson.

Acceptable measures of physical intervention

The school will put in place systems for managing and reviewing the following:

- Strategies for preventing the occurrence of behaviours which precipitate the use of a physical intervention

- Strategies for 'de-escalation' or 'de-fusion' which can avert the need for a physical intervention
- Procedures for post-incident support and de-briefing for staff, children, service users and their families
- The concept of reasonable force where 'reasonableness' is determined with reference to all the circumstances, including:
 - the seriousness of the incident
 - the relative risks arising from using a physical intervention compared with using other strategies
 - the age, cultural background, gender, stature and medical history of the child or service user concerned
 - the application of gradually increasing or decreasing levels of force in response to the person's behaviour
 - the approach to risk assessment and risk management employed
 - the distinction between:
 - seclusion* where an adult or child is forced to spend time alone against their will in a locked room or room which they cannot leave (NB: this is not a permissible form of control).
 - time out* which involves restricting the service user's access to all positive reinforcements as part of the behavioural programme
 - withdrawal* which involves removing the person from a situation which causes anxiety or distress to a location where they can be continuously observed and supported until they are ready to resume their usual activities
 - the distinction between *planned* physical interventions (where incidents are foreseeable in that they have occurred previously and a response planned following a risk assessment) and the use of force in *emergency* situations (which cannot reasonably be anticipated)
 - first aid procedures to be employed and those responsible for implementation in the event of an injury or physical distress arising as a result of a physical intervention
 - *unacceptable* practices that might expose service users or staff to foreseeable risk of injury or psychological distress.

(Para 10.8, page 19 DfES Guidance. Ref:LEA/0242/2002)

Wherever possible assistance will be sought from another member of staff.

Positive Handling at (name of school/provision) is seen as a proactive response to meet individual pupil needs and any such measures will be most effective in the context of the overall ethos of the school, the way that staff exercise their responsibilities and the behaviour management strategies used.

Recording

Where physical control or restraint has been used, a record of the incident will be kept. This record should be made in the school Serious Incident Book, statutory for all special school provision. This is a hard-backed book, with numbered pages, retained by the Headteacher containing a brief reference to the detailed Restraint Form and Health & Safety/Incident Form as appropriate.

The Restraint Form will be completed as soon as possible after the incident, normally prior to staff going off duty and be signed by all staff involved and the Headteacher.

After the review of the incident, copies of the Restraint Form will be placed on the pupil's file.

A Health and Safety Accident/Incident Form will be completed and returned to the Local Education Authority in situations where injury has occurred to either members of staff or pupils. Where staff have been involved in an incident involving reasonable force they should have access to counselling and support.

Monitoring incidents

Whenever a member of staff has occasion to use reasonable force, this will always be recorded and documented following agreed procedures. Monitoring of incidents will help to ensure that staff are following the correct procedures and will alert the Headteacher to the needs of any pupil(s) whose behaviour may require the use of reasonable force.

Monitoring of incidents will take place on a regular basis and the results used to inform planning to meet individual pupil and school needs.

To support the Headteacher and the school and ensure objectivity, the Link Advisor and or Behaviour Support Service Consultant to the school will be involved with the monitoring process.

Action after an incident

The Headteacher will ensure that each incident is reviewed and investigated further as required. If further action is required in relation to a member of staff or a pupil, this will be pursued through the appropriate procedure:

- Review of Behaviour Programme
- Child Protection Procedure (this may involve investigations by police and/or Social Services)
- Staff or Pupil Disciplinary Procedure
- School Behaviour Policy
- Exclusions Procedure in the case of violence or assault against a member of staff

The member of staff will be kept informed of any action taken.

In the case of any action concerning a member of staff, he/she will be advised to seek advice from his/her professional association/union.

Complaints

The availability of a clear policy about reasonable force and early involvement of parents should reduce the likelihood of complaints but may not eliminate them.

Any complaints about staff will be investigated through the school's Complaints Policy. If necessary the complaint will be dealt with by the Staff Disciplinary Procedures and/or Child Protection Procedures.

Other relevant policies

Other relevant policies that cross reference with this one are:

(School to draw up list of relevant policies eg: Behaviour Policy, Exclusion Policy, Health & Safety Policy, Child Protection Policy).

Peter Wild

Behaviour Support Service

May 2003

POLICY ON CARE AND CONTROL OF PUPILS

Model statement for parents on the use of reasonable force for inclusion in school prospectus

If staff become aware of, or have a need to become involved in, situations where a child may be at risk of hurting themselves or others, or if the behaviour of a child seriously disrupts good order in the school or causes damage to property, staff may need to take steps to intervene physically. In such circumstances staff will follow the school's policy for dealing with such situations. Any parent wishing to view this policy may do so on request.

Appendix 5

Below is a statement from 'Concepts in Education' that summarises their input into the process in Birmingham.

External consultancy was valuable as it brought breadth, depth and structure to the process and enabled rapid cross-referencing with initiatives in other parts of the country. It also brought a measure of objectivity to the process that was widely appreciated.

In the spirit of being illustrative rather than prescriptive in this document, I would point out there are other good quality consultants operating in this field.



Standards and protocols in respect of care and control

Supporting LEA Strategy

Having worked with the DfES at national level in relation to this area and as a member of the British Institute of Learning Disabilities Physical Intervention Panel, we were ideally placed to ensure that Birmingham's strategy was well informed. The work undertaken should be perceived as holistic and remains ongoing.

Activities undertaken include:

- Working specifically with a named Officer within the Education Service to develop and implement strategy.
- The production of a positional report in relation to Behaviour Management/Care and Control that reflected the current status within schools and services. The information provided was used to inform strategy and to impact upon practice.
- The review of Birmingham Education Services Guidelines in relation to Care and Control ensuring that they meet national guidelines.
- The production of a Care and Control Policy for Schools and Services that reflected national guidelines which was then used to inform practice.
- Providing advice and guidance across Services in relation to risk assessment and the production of Positive Handling Plans for those young people who present the greatest physical challenge in relation to their behaviour.
- Work in an advisory capacity across the Education Service providing bespoke training for colleagues in relation to strategy and practice. This included training for Heads of Service and Headteachers in relation to the writing and implementation of care and control policies within their settings. It is important to note at this point that there are no statutory requirements for a provision to have a Care and Control Policy. It is the responsibility of managers to assess risk and then incorporate developments within their own improvement agenda.
- Advice in relation to the production of a bank of instructors who could deliver training across provisions, thus ensuring that the Education Service met its statutory responsibilities in relation to Health and Safety towards its employees.
- Providing opportunities for all Education Service staff to attend awareness raising training in relation to care and control.

● Next stages include:

- To audit all provisions within the Service in relation to behaviour management and care and control in order to evaluate the impact of the strategy to date and inform future areas of development
- Providing members of Birmingham Inclusion Support Department with guidance when undertaking their school/setting-based visits in relation to policy production, monitoring incidents and effective record keeping.
- The development of Quality Assurance documentation which will inform: future planning, Authority target-setting procedures and areas of focus within both the Education Development Plan of the Local Education Authority and Behaviour Support Plan.

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